

## **REMARKS**

Claims 21-54 are pending in the above-reference application. Claims 21-24 and 26-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,814,070 to Borzone et al. (hereinafter “Borzone”) in view of U.S. Patent No. 6,569,186 to Winters, et al. (hereinafter “Winters”). Claims 25, 29-36, 34-36 and 45-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters as applied to claims 21-24, 26-28 and further in view of U.S. Patent No. 6,045,573 to Wenstrom, Jr., et al. (hereinafter “Wenstrom”). Claims 37-40, and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters as applied to claim 26, and in further view of U.S. Patent Application No 2002/0042615 to Graf, et al. (hereinafter “Graf”). Claim 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters and Graf as applied to claim 37, and in further view of Wenstrom.

By this paper, Applicants have amended claims 21, 25, 29, 37, and 42 to recite additional structural limitations that clearly distinguish over the cited art. Applicants respectfully assert that claims 21-54 are in condition for allowance.

### **REJECTION OF CLAIMS 21-24 AND 26-28 UNDER 35 U.S.C. § 103(a) OVER BORZONE IN VIEW OF WINTERS**

Claims 21-24 and 26-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters. By this paper, claim 21 has been amended to more particularly define the invention by reciting that a first suture port and “a separate second suture port extend through at least a portion of the body and each port is independently fully encircled by an interior surface along at least a portion of its length.” This limitation derives clear support from Applicants’ disclosure, specifically, Figures 3 and 9 and the accompanying text. Neither Borzone nor Winters discloses the presence of two separate, independent suture ports that are each fully encircled by an interior surface. Rather, Borzone discloses a single slot 38 that is not separate from a second suture port and is not independently fully encircled by an interior surface. *Borzone*, column 3, lines 15-18, Figure 6. Winters also does not disclose the claim limitation as recited above. Rather, Winters discloses a suture slot 40 that is not independent and separate from a second suture port and the suture slot 40 is not independently fully encircled by an interior surface, but is rather in communication with a second

suture slot. *Winters*, column 3, lines 37-39, Figure 3.

Since claim 21 recites features that are not found in either Borzone or Winters it is patentable over the cited combination. Claims 22-24 and 26-28 depend from claim 21 and are therefore patentable for the same reasons supplied above. Applicants respectfully request withdrawal of the rejection.

REJECTION OF CLAIMS 25, 29-36 AND 45-54 UNDER 35 U.S.C. § 103(a) OVER BORZONE IN VIEW OF WINTERS IN FURTHER VIEW OF WENSTROM

Claims 25, 29-36 and 45-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters in further view of Wenstrom. By this paper, claim 29 has been amended to more particularly define the invention and recite features clearly not disclosed by Borzone, Winters or Wenstrom. Similar to claim 21 above, claim 29 now recites, “a first suture port and a separate second suture port are each independently fully encircled by an interior surface at a location near the proximal end.” As set forth above, neither Borzone nor Winters disclose such a limitation. Likewise, Wenstrom fails to disclose a separate second suture port that is independently fully encircled by an interior surface. Rather, Wenstrom appears to disclose suture slots 110, 120 that are open and not independently fully encircled. *Wenstrom*, Figures 1 and 2.

Regarding claim 45, neither Borzone, Winters nor Wenstrom discloses, “four parallel suture lengths extending proximally from four apertures of the proximal end, wherein each aperture is fully encircled by an interior surface of the elongated body.” Rather, Borzone discloses only a single passageway, not four apertures fully encircled by an interior surface, wherein a suture may pass through. *Borzone*, column 3, lines 22-25, Figures 2 and 4. Likewise, Winters fails to disclose the above limitations and appears to merely disclose only two suture slots 40, not four apertures fully encircled. *Winters*, Figure 3. Furthermore, Wenstrom fails to disclose the above limitations by merely disclosing suture slots, which are not four apertures fully encircled by an interior surface. *Wenstrom*, Figures 1 and 2.

Regarding claim 25, this claim depends from claim 21 which is patentable over Borzone and Winters as previously set forth herein. Claim 25 is patentable over the cited combination with Wenstrom because Wenstrom also fails to disclose the claim limitations of a separate second suture

port fully encircled by an interior surface as discussed relative to claim 29 set forth herein. Likewise, claims 35 and 36, which depend from claim 29 also are patentable for the reasons previously set forth. Since claim 25 depends from claim 21 and claims 35 and 36 depend from claim 29 they are patentable over the combination of Borzone, Winters and Wenstrom as set forth above.

Since claims 30-36 depend from claim 29 and claims 46-54 depend from claim 45, they are therefore patentable for the reasons set forth above. Applicants respectfully request withdrawal of the rejection.

REJECTION OF CLAIMS 37-40 AND 42-44 UNDER 35 U.S.C. §103(a) OVER BORZONE IN VIEW OF WINTERS IN FURTHER VIEW OF GRAF

Claims 37-40 and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters in further view of Graf. By this paper, claim 37 has been amended to more particularly define the invention by reciting, “the first suture port is positioned such that the first suture port is not in communication with the bore.” This limitation derives clear support from Applicants’ disclosure, Figures 3 and 9 and the accompanying text. Neither Borzone, Winters or Graf disclose a first suture port not in communication with the bore. Specifically, Borzone does not disclose a bore that extends through a longitudinal axis through the length of the body of the suture anchor. Rather, Borzone discloses grooves and slots, but no central bore. *Borzone*, column 3, lines 55-65. Without a central bore Borzone cannot have a bore not in communication with a first suture port. Second, Graf, may disclose a bore; however, the bore is in communication with graft receiving channels. *Graf*, paragraph [0024], Figure 4A. Similarly, Winters discloses suture slots 40 which are clearly in communication with the bore. *Winters*, Figure 3.

Since claims 38-40 and 42-44 depend from claim 37 they are patentable for the reasons set forth above. Applicants respectfully request withdrawal of the rejection.

REJECTION OF CLAIM 41 UNDER 35 U.S.C. §103(a) OVER BORZONE IN VIEW OF WINTERS IN VIEW OF GRAF IN FURTHER VIEW OF WENSTROM

Claim 41 stands rejected under 35 U.S.C. §103(a) over Borzone in view of Winters in view of Graf in further view of Wenstrom. Claim 41 depends from claim 37 which are patentable over

Borzone, Winters and Graf for the reasons set forth above. Wenstrom also fails to disclose, “the first suture port is positioned such that the first suture port is not in communication with the bore.” Like Borzone, Wenstrom fails to disclose a bore. *Wenstrom*, Figures 1 and 2. Without a bore Wenstrom cannot have a bore not in communication with a first suture port.

For the reasons set forth above claim 41 is patentable over the cited combination. Withdrawal of the rejections is respectfully requested.

### CONCLUSION

For the reasons set forth above, Applicants respectfully assert that claims 21-54 are in condition for allowance. If there are any remaining issues preventing mailing of a Notice of Allowance, the Examiner is respectfully requested to contact the undersigned.

Dated this 12<sup>th</sup> day of March 2009.

Respectfully submitted,

/Barbara Daniels/

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Barbara Daniels  
Agent for Applicants  
Registration No. 60,467

MedicineLodge, Inc.  
180 South 600 West  
Logan, UT 84321  
Telephone: (435)774-1504  
Facsimile: (435)753-7698